

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

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UNITED STATES OF AMERICA and	:
STATE OF INDIANA,	:
	:
Plaintiffs,	:
	:
	:
v.	:
	:
	:
ATLANTIC RICHFIELD COMPANY and	:
E. I. DU PONT DE NEMOURS AND COMPANY,	:
	:
Defendants.	:
-----X	

Civil Action No. 2:14-cv-312

STATUS REPORT

This Status Report is made by the United States, acting on behalf of the United States Environmental Protection (“EPA”), regarding implementation of the Consent Decree entered by the Court in this action on October 28, 2014 (“Consent Decree”) (Dk. No. 8-1).

In preparing this Status Report, the United States coordinated with Co-Plaintiff the State of Indiana (“State”), acting on behalf of the Indiana Department of Environmental Management (“IDEM”); with Defendants Atlantic Richfield Co. (“ARC”) and E. I. DuPont de Nemours and Company (“DuPont”); and with The Chemours Company FC, LLC (“Chemours”).¹ Hereinafter ARC, DuPont, and Chemours shall be termed the “Settling Defendants.” The United States, the State, and the Settling Defendants shall be termed the “Parties.”

¹ Through a 2015 corporate transaction, DuPont transferred its liability under the Consent Decree to Chemours. DuPont, however, remains jointly and severally liable under the Consent Decree. Dk. No. 8-1 at ¶ 6.b.

The State joins in this Status Report. Each of the Settling Defendants has authorized counsel for the United States to represent that it has no objection to the filing of this Status Report.

I. BACKGROUND

The Consent Decree in this action concerns remedial work at portions of the U.S. Smelter and Lead Refinery, Inc. Superfund Site (“Site”) in East Chicago, Indiana, under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9601 et seq. In 2009, EPA placed the Site on the National Priorities List (“NPL”) because of hazardous substance contamination in the soil from various industrial operations formerly located on or near the Site.

For purposes of site investigations, EPA divided the Site into two areas known as “Operable Units” or “OUs”: OU1 and OU2. *See* Attachment 1 (map depicting OU1 and OU2). OU1 is largely a residential area known as the Calumet neighborhood of East Chicago. OU2 is a 79 acre parcel of land that housed a primary and secondary lead smelter owned and operated by USS Lead Refinery, Inc. until the smelter’s closure in 1985.

In a 2012 Record of Decision (“2012 ROD”), EPA selected a remedy for hazardous substances in OU1 that called for, *inter alia*, the excavation of soils containing lead or arsenic above certain triggering levels down to a maximum depth of 24 inches, the replacement of those soils with clean soil, and the restoration of each excavated area to its pre-remedial condition. *See* Dk. No. 2-3 (Appendices C-E of Consent Decree) at App. C (2012 ROD) at 6 (in banner).² In selecting this remedy, EPA expected that the land use of the residential areas would remain

² As used in a page citation, the phrase “in banner” refers to the page number electronically inserted at the top of an e-filed court document as opposed to the page number in the original version of the document.

“unchanged.” *Id.* at 15 (in banner). EPA therefore selected the remedy based upon residential clean-up standards.³

The Consent Decree entered by this Court provides for the implementation of the selected remedy in two of three subparts of OU1, known as Zones 1 and 3. *See* Attachment 2 (map depicting the three zones). As set forth in the Consent Decree, EPA intended to undertake the remedy for OU1 in at least two phases. *See* Dk. No. 8-1 at 4 (in banner), Para. N. The first phase was to consist of designing the remedy (“remedial design”) and implementing it (“remedial action”) in Zones 1 and 3. *Id.* Remedial design and remedial action in Zone 2 were reserved for a later phase. *Id.*

II. STATUS OF IMPLEMENTATION

Zone 1. Zone 1 includes the West Calumet Housing Complex (“WCHC”) which is a public housing development operated by the East Chicago Housing Authority (“ECHA”) with funding from the United States Department of Housing and Urban Development (HUD”), an elementary school known as the Carrie Gosch Elementary School, and a park known as Goodman Park. As contemplated in the Consent Decree, EPA initiated remedial design of the remedy selected for Zone 1. The remedial design process included significant additional sampling of Zone 1 including WCHC yards, the results of which documented widespread areas of lead contamination above EPA action levels in surface soils. In June of this year, EPA began taking several interim remedial measures to reduce potential exposure of residents to lead contamination, including placing mulch over bare spots in WCHC yards and offering WCHC residents the opportunity for interior lead sampling and interior home cleaning to remove lead

³ Further information about the Site may be found at:
<https://cumulis.epa.gov/supercpad/cursites/csinfo.cfm?id=0501433>.

potentially tracked in from the outdoors. EPA also significantly expanded its public outreach and coordination efforts with residents of the WCHC, the ECHA, HUD, and others in the East Chicago community.⁴

In addition, the Indiana State Department of Health is performing blood lead level screening and confirmatory testing of individuals, performing statistical analysis on the lead data, drafting and disseminating educational materials and providing resources, including personnel, supplies, data entry, case management and equipment.

At present, while EPA continues the interim remedial measures generally described above and the State continues its activities, EPA is in the process of reexamining the remedy selected for the WCHC in the 2012 ROD and, during that reexamination, is not proceeding with full implementation of the remedy in Zone 1. This remedy reexamination has been prompted and may be affected by ECHA/HUD efforts to relocate WCHC residents and potential future land use changes.

Zone 3. With respect to Zone 3, the Parties have been and will continue implementing the selected remedy in accordance with the Consent Decree. EPA is close to completing the remedial design for Zone 3 and plans to commence a first round of yard clean-ups in Zone 3 this Fall. The Settling Defendants have provided funding for the ongoing work, are expected to continue to provide such funding pursuant to the terms of the Consent Decree, and will be responsible for offsite disposal of excavated soils at appropriate, licensed disposal facilities.

⁴ Further information about current activities in Zone 1 may be found at: <https://www.epa.gov/in/west-calumet-housing-complex-east-chicago-ind>.

Zone 2. As noted above, Zone 2 is not covered by the Consent Decree. EPA is undertaking additional yard sampling in Zone 2 and reviewing issues related to securing funding for the Zone 2 remedial work.

Respectfully Submitted,

FOR THE UNITED STATES OF AMERICA

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CERTIFICATE OF SERVICE

I, Annette M. Lang, hereby certify that on this 2nd day of September 2016, I caused a true copy of the foregoing Status Report to be served by first-class mail, postage pre-paid, on the following counsel of record, and that I also electronically mailed it to them by means of my electronic mail service and not the Court's:

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ATTACHMENT 1



-  OU-1 boundary
-  OU-2 boundary

Basemap source: Esri



US SMELTER & LEAD REFINERY
LAKE COUNTY, EAST CHICAGO, INDIANA

APPENDIX A
USS LEAD SITE

EPA REGION 5 RAC 2 | REVISION 0 | JULY 2014



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ATTACHMENT 2



Zone

Basemap source: Esri



US SMELTER & LEAD REFINERY

LAKE COUNTY, EAST CHICAGO, INDIANA

APPENDIX D

OU1 ZONES

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ATTACHMENT 3

